

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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BILL DRAFT 2007-LAz-21 [v.3] (4/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Tax on Short-term Heavy Equipment Rentals.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RESOLVE PROBLEMS WITH APPLYING PROPERTY TAX TO
HEAVY EQUIPMENT RENTED ON A SHORT-TERM BASIS BY ALLOWING
TAXPAYERS WHO ARE ENGAGED IN THE SHORT-TERM HEAVY
EQUIPMENT RENTAL BUSINESS TO PAY A LOCAL TAX BASED ON THE
GROSS RECEIPTS OF THE BUSINESS IN LIEU OF PAYING PROPERTY
TAXES ON THE HEAVY EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under
authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be
listed, appraised, assessed, or taxed:

...

(42a) Heavy equipment owned by a person who elects to pay a gross receipts
tax under G.S. 153A-156.1 and G.S. 160A-215.2 on its receipts from
the lease or rental of the equipment."

SECTION 2. Article 7 of Chapter 153A of the General Statutes is amended
by adding a new section to read:

"§ 153A-156.1. Election to pay gross receipts tax on heavy equipment.

(a) Definitions. – The following definitions apply in this section:

(1) Heavy equipment. – Earthmoving or construction equipment that
meets any of the following requirements:

a. It is a self-propelled vehicle that is not designed to be driven on
a highway.

b. It is industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

c. It is an attachment or an accessory for a vehicle or a piece of equipment described in this subdivision.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1.

(b) Election. – A person whose principal business is the short-term lease or rental of heavy equipment at retail may elect to pay a tax under this section in lieu of a property tax on the heavy equipment. To make this election, a person must file a notice of election with the Department of Revenue. The notice must contain the information required by the Department. The Department must notify the counties and any city that collects its own property taxes of an election filed under this section.

A notice of election is effective for the first fiscal year that begins at least five months after it is filed. An election remains in effect until it is revoked.

(c) Tax. – The tax authorized by this section applies to a short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail. The tax rate is X percent (X %) of the gross receipts from the short-term lease or rental of the heavy equipment. The tax is payable by the person who leases or rents the heavy equipment.

(d) Payment. – The tax imposed by this section is payable quarterly and is due by the last day of the month following the end of the quarter. The tax must be paid to the tax collector of each county to which the tax is allocated under subsection (e) of this section and to the finance officer of each city to which the tax is allocated under subsection (e) of this section. The penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to this tax. The county tax collector has the same authority as the Secretary of Revenue in imposing these penalties and remedies.

(e) Allocation. – The tax imposed by this section must be allocated among the counties and cities based on where heavy equipment that is subject to the tax is used. When a person who is required to pay the tax imposed by this section enters into a short-term lease or rental agreement for heavy equipment, the person must determine the county and city, if any, where the heavy equipment is to be used. If an agreement does not specify where heavy equipment is to be used, the heavy equipment is considered to be used at the location of the place of business from which the heavy equipment is leased or rented. The amount allocated to each county and city is the tax paid on the heavy equipment used in the county or city. When heavy equipment is used in a city, one-half of the tax paid on the equipment is allocated to the city and one-half is allocated to the county in which the city is located.

(f) Revocation. – A person who has filed an election under this section may revoke the election by filing a notice of revocation with the Department of Revenue. A notice of revocation is effective for the first fiscal year that begins at least five months after it is filed. When the Department receives a notice of revocation, it must notify the counties and any city that collects its own property taxes of the revocation.

1 **SECTION 3.** Article 9 of Chapter 160A of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 160A-215.2. – Election to pay gross receipts tax on heavy equipment.**

4 G.S. 153A-156.1 authorizes a person whose principal business is the short-term
5 lease or rental of heavy equipment to elect to pay a tax on the gross receipts from the
6 lease or rental of the heavy equipment in lieu of a property tax on the heavy equipment.
7 An election filed under that section applies to a city. Heavy equipment owned by a
8 person who makes an election under that section is excluded from property tax under
9 G.S. 105-275."

10 **SECTION 4.** G.S. 105-259(b)(5) reads as rewritten:

11 **"§ 105-259. Secrecy required of officials; penalty for violation.**

12 (b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
13 who has access to tax information in the course of service to or employment by the State
14 may not disclose the information to any other person unless the disclosure is made for
15 one of the following purposes:

16 ...

17 (5) To furnish to the chair of a board of county commissioners or the tax
18 collector of a county information on the county sales and use tax."

19 **SECTION 5.** This act is effective when it becomes law.